

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maura Roche	Team: Squad #10	CCRB Case #: 201807245	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 08/27/2018 6:45 AM	Location of Incident: [REDACTED]	Precinct: 75	18 Mo. SOL 2/27/2020	EO SOL 2/27/2020	
Date/Time CV Reported Fri, 08/31/2018 1:29 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 08/31/2018 1:29 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM John Uske	02554	939622	084 PCT
2. SDS David Cheesewright	01990	913752	INT CIS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DTS Patrick Barry	00249	917283	E S U
2. POM Daniel Macsweeney	05838	930614	ESS 03
3. POM Ryan Galvin	08096	948997	ESS 08
4. DTS Luis Salavarria	04704	944967	ESS 06
5. SGT Gregory Burns	03478	934550	ESS 07
6. DT2 Matthew Vahey	07959	907488	E S U
7. DTS Charles Barrett	433	923536	ESS 09
8. DTS Shawn Soler	05036	927537	E S U
9. POM Andrew Kamna	24865	943423	073 PCT
10. POM Christophe Griffith	00258	951791	077 PCT
11. POM Gerard Fenton	06680	951725	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM John Uske	Abuse: Police Officer John Uske entered § 87(2)(b) [REDACTED] in Brooklyn.	[REDACTED]
B.POM John Uske	Abuse: Police Officer John Uske searched § 87(2)(b) [REDACTED] in Brooklyn.	[REDACTED]
C.POM John Uske	Discourtesy: Police Officer John Uske spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
D.SDS David Cheesewright	Abuse: Sergeant David Cheesewright refused to provide his name to § 87(2)(b) [REDACTED]	[REDACTED]
E.SDS David Cheesewright	Abuse: Sergeant David Cheesewright refused to provide his shield number to § 87(2)(b) [REDACTED]	[REDACTED]
F.SDS David Cheesewright	Abuse: Sergeant David Cheesewright refused to show the search warrant to § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On August 31, 2018, § 87(2)(b) filed this complaint with the CCRB by phone.

On August 27, 2018, at approximately 6:45 a.m., Det. Patrick Barry, PO Daniel Macsweeney, PO Ryan Galvin, Det. Luis Salavarría, Sgt. Gregory Burns, Det. Matthew Vahey, Det. Charles Barrett, and Det. Shawn Soler, all of the Emergency Services Unit, along with Sgt. David Cheesewright, of the Criminal Intelligence Section, PO Christopher Griffith, PO Andrew Kamna, both of the 77th Precinct, and PO Gerard Fenton, of the 73rd Precinct, entered and searched § 87(2)(b) in Brooklyn on the authority of a search warrant (BR 07) obtained by PO John Uske, of the 84th Precinct (**Allegation A: Abuse of Authority – Entry of Premises**, § 87(2)(g) (**Allegation B: Abuse of Authority – Search of Premises**, § 87(2)(g)). The ESU officers broke the lock on the front door as they entered the apartment with their guns drawn (subsumed under **Allegation A**). Upon entering the apartment, PO Uske allegedly told § 87(2)(b) who was sleeping, “Get the fuck up” (**Allegation C: Discourtesy – Word**, § 87(2)(g)). While PO Griffith and PO Fenton, and PO Kamna searched the apartment for narcotics and § 87(2)(b) brother, § 87(2)(b) Sgt. Cheesewright allegedly refused to provide his name (**Allegation D: Abuse of Authority – Refusal to Provide Name**, § 87(2)(g)) and shield number (**Allegation E: Abuse of Authority – Refusal to Provide Shield Number**, § 87(2)(g)) to § 87(2)(b). Sgt. Cheesewright allegedly placed a copy of the search warrant on § 87(2)(b) dining table and refused to allow her to get her glasses so that she could verify that the document was a search warrant (**Allegation F: Abuse of Authority – Refusal to Show Search Warrant**, § 87(2)(g)). After the officers had searched the apartment, § 87(2)(b) saw that one of the bottom dresser drawers had been taken off its tracks. § 87(2)(b) also saw that one to two of the slats on the bottom frame of the bed in her son’s room were broken (subsumed under **Allegation B**).

No arrests or summonses resulted from this incident. Surveillance footage from § 87(2)(b) (BR 01, BR 02, BR 08, BR 18, BR 19, BR 20, BR 21, and BR 22) did not capture any portions of this incident. Sgt. Cheesewright took two videos of the incident with his department issued cell phone (BR 12 and BR 13). There was no other video of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer John Uske entered § 87(2)(b) in Brooklyn.

Allegation (B) Abuse of Authority: Police Officer John Uske searched § 87(2)(b) in Brooklyn.

Allegation (C) Discourtesy: Police Officer John Uske spoke discourteously to § 87(2)(b)

It is undisputed that on August 27, 2018, at approximately 6:45 a.m., ESU officers breached § 87(2)(b) apartment door and entered her apartment with guns drawn pursuant to the execution of a no-knock search warrant (BR 07) requested by PO Uske. It is also undisputed that PO Uske entered and searched § 87(2)(b) with Sgt. Cheesewright, PO Griffith, PO Kamna, and PO Fenton.

§ 87(2)(b) (BR 03) stated that at approximately 6:45 a.m., § 87(2)(b) who was alone, was woken up by a male loudly yelling two times, “Get up.” § 87(2)(b) did not immediately get up because she was disoriented, but she looked around and saw approximately five officers standing around her holding guns in their hands. PO Uske then yelled, “Get the fuck up!” § 87(2)(b) then sat up and asked what was going on. One of the officers told her that they were looking for § 87(2)(b) because they had information that he was selling crack out of her

apartment. § 87(2)(b) told the officers that § 87(2)(b) did not live with her and that she did not know where he was. She then asked permission to use the bathroom, which was given to her after a few seconds.

After § 87(2)(b) used the bathroom, she was led into the living room and sat down in a dining chair in the middle of the room. § 87(2)(b) yelled out for her children, and one of the officers told her that no one else was home. At that time, she realized that the officers must have looked in the other rooms in her apartment as well as her bedroom. Some of the officers left, leaving PO Uske, PO Kamna, PO Griffith, PO Fenton, and Sgt. Cheesewright in the apartment with § 87(2)(b).

When the officers eventually left her apartment, § 87(2)(b) assessed the state of her apartment (**BR 04**) and saw that all her dresser drawers were opened and that one of the drawers in the dresser in her room had been taken off its tracks. § 87(2)(b) was not able to get the drawer properly back on the tracks. § 87(2)(b) also noticed that the mattress in her son's bedroom had been taken off the bed frame. When she looked at the base of the frame, she saw that two of the slats that support the mattress were broken. She had not been aware of any damage to these slats prior to the officers' search of the apartment. She did not witness the officers break these slats and had not spoken to her son about their condition prior to the officers' arrival.

PO Uske (**BR 05**) stated that after ESU officers initially entered and secured the apartment, one of the ESU officers came to the hallway outside the apartment, where PO Uske, Sgt. Cheesewright, and other members of their team were waiting. This officer told PO Uske that the apartment was secure, but that § 87(2)(b) was sleeping in one of the bedrooms. PO Uske and Sgt. Cheesewright both entered the apartment, and PO Uske went to the bedroom. PO Uske was not sure if Sgt. Cheesewright went into the bedroom with him.

When he got to the bedroom, PO Uske saw that § 87(2)(b) was still asleep in her bed. PO Uske could not recall which other officers were in the bedroom with him at this time. PO Uske said to § 87(2)(b) "Good morning, ma'am. Police," and told her to get up. He could not recall if he had to ask her more than one time to get up. PO Uske denied using any profanity during the incident, and he did not hear any other officers do so at any point during the incident. PO Uske was unaware of any damage to the interior of the apartment.

Sgt. Cheesewright's (**BR 06**) statement was consistent with PO Uske's. Sgt. Cheesewright did not recall ever going into § 87(2)(b) bedroom, and he did not hear any officers use any profanity during the course of the incident. Sgt. Cheesewright could not recall if anything inside the apartment was damaged.

The search warrant § 87(2)(b) (**BR 07**), obtained by PO Uske and signed by Judge § 87(2)(b) is dated § 87(2)(b), and authorized officers to enter and search § 87(2)(b) without prior notification of entry, for crack cocaine and associated paraphernalia, documents relating to the trafficking of crack cocaine and ownership and recent occupation of the premise, us currency related to trafficking crack cocaine, any safes or locked containers, computer hardware, computer software, cellular phones, and written records relating to the password or encryption of these phones and computers.

Patrol Guide Procedure 200-02 (**BR 09**) states that the New York City Police Department is committed to treating every citizen with compassion, courtesy, professionalism, and respect.

According to Deputy Commissioner of Trials case #2017-17276 (**BR 10**), in a stressful encounter, language which would ordinarily be inappropriate in dealing with civilians may be excused.

Because PO Uske requested the search warrant, the entry and search allegations have been pleaded against him.

As § 87(2)(b) description of ESU officers damaging her front door and entering with guns drawn was consistent with the execution of a no-knock search warrant and not gratuitous, these allegations were subsumed with the entry allegation.

§ 87(2)(b), § 87(2)(g)

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Allegation (D) Abuse of Authority: Sergeant David Cheesewright refused to provide his name to § 87(2)(b)

Allegation (E) Abuse of Authority: Sergeant David Cheesewright refused to provide his shield number to § 87(2)(b)

Allegation (F) Abuse of Authority: Sergeant David Cheesewright refused to show the search warrant to § 87(2)(b)

It is undisputed that Sgt. Cheesewright stayed with § 87(2)(b) in her living room while other officers searched her apartment.

§ 87(2)(b) (BR 03) stated that after she was seated in the living room, Sgt. Cheesewright put a piece of paper on the dining room table, which was approximately three feet away from the chair in which she was sitting. § 87(2)(b) could not see what the paper was because she did not have her glasses. Sgt. Cheesewright told her that it was a search warrant that had been issued by a judge and that the officers were there because they had information that § 87(2)(b) was selling crack out of her apartment. § 87(2)(b) told Sgt. Cheesewright that this was not true and asked that she be allowed to call § 87(2)(b) so that the officers could speak to him directly. Sgt. Cheesewright allowed § 87(2)(b) to call § 87(2)(b) and, having established contact with § 87(2)(b) she passed the phone to Sgt. Cheesewright. Sgt. Cheesewright and § 87(2)(b) spoke briefly, and Sgt. Cheesewright passed the phone back to § 87(2)(b) who did not know what § 87(2)(b) and Sgt. Cheesewright spoke about and was not paying attention to the conversation because she was upset about the situation.

§ 87(2)(b) and Sgt. Cheesewright were in the living room for approximately 35 to 40 minutes, during which time § 87(2)(b) who could hear the other officers moving things in other rooms, told Sgt. Cheesewright that the officers did not need to “tear up” her apartment. Sgt.

Cheesewright told § 87(2)(b) to sit still and be quiet. § 87(2)(b) asked Sgt. Cheesewright if she could get her glasses so she could read the paper that was on the table, but Sgt. Cheesewright refused, and § 87(2)(b) was never able to verify that the piece of paper was a search warrant. § 87(2)(b) also asked Sgt. Cheesewright at least three times for his name and “badge number.” Each time, Sgt. Cheesewright told § 87(2)(b) to sit still and be quiet.

After the other officers finished searching the apartment, they approached § 87(2)(b) and apologized. Sgt. Cheesewright and all the officers then left.

§ 87(2)(b) (**BR 11**) stated that he briefly spoke on the phone with an officer whose name he did not know. § 87(2)(b) told this officer that he did not sell and drugs and that he would come over to § 87(2)(b) apartment to straighten everything out. § 87(2)(b) arrived at § 87(2)(b) apartment approximately 30 minutes later, but the police had already left, and he had no additional contact with any officers that day. § 87(2)(b) stated that he had no subsequent contact with officers and was not been arrested in regard to the search warrant or for anything involving narcotics.

Sgt. Cheesewright (**BR 06**) stated that his primary responsibility was to supervise the search of the apartment and that he remained in the living room with § 87(2)(b) for the majority of the time he was in the apartment. When § 87(2)(b) first sat down, she told Sgt. Cheesewright that she needed her glasses to see. Sgt. Cheesewright provided the glasses to her, although, he could not recall from where he retrieved them. He handed § 87(2)(b) the search warrant after she had her glasses and allowed her to read the search warrant until she indicated that she was done. Sgt. Cheesewright could not recall if § 87(2)(b) ever asked him for his name or shield number, but it is his policy to always provide this information whenever he is asked for it.

PO Uske (**BR 05**) stated that after § 87(2)(b) woke up, she asked to go to the bathroom, which he permitted. While she was in the bathroom, he left the apartment to assist with another search warrant that was being executed in a different apartment in the same building. PO Uske had no further interaction with § 87(2)(b).

Sgt. Cheesewright provided the CCRB with two videos he took with his department-issued cell phone during the incident (**BR 12** and **BR 13**). The first video (**BR 12**) begins with Sgt. Cheesewright, who is standing immediately next to § 87(2)(b) who is seated in the living room, stating, “My name is Sergeant David Cheesewright. Today is August 27, 2018. We are at § 87(2)(b) § 87(2)(b) § 87(2)(b) I am here with a valid search warrant signed by § 87(2)(b) § 87(2)(b) from the Supreme Court.” At 00:34 seconds, Sgt. Cheesewright hands the search warrant to § 87(2)(b) who takes it from him. § 87(2)(b) asks for her phone, and Sgt. Cheesewright tells her that they will get it for her. At 00:47 seconds, § 87(2)(b) says, “I need my glasses.” Sgt. Cheesewright replies, “we’ll get your glasses.” At 01:04 seconds, a voice off camera says, “Where are your glasses, dear?”

The second video (**BR 13**) begins with Sgt. Cheesewright holding the search warrant out to § 87(2)(b) and saying, “Take a look at this.” At 00:04 seconds, Sgt. Cheesewright asks, “Do you have your glasses?” § 87(2)(b) replies, “Yes. I do.” At 00:09 seconds, § 87(2)(b) puts on her glasses and takes the search warrant from Sgt. Cheesewright. From 00:30 seconds to 00:57 seconds, § 87(2)(b) appears to be reading the search warrant.

Although § 87(2)(b) stated that Sgt. Cheesewright refused to tell her his name or let her get her glasses so she could read the search warrant, the video provided by Sgt. Cheesewright clearly captures him stating his name while standing next to § 87(2)(b) and § 87(2)(b) reading the search warrant while wearing her glasses. The video does not capture Sgt. Cheesewright ever tell § 87(2)(b) his shield number.

Patrol Guide Procedure 203-09 (**BR 14**) states that officers must courteously and clearly state their rank, name, shield number, and command or otherwise provide them, to anyone who requests this information.

§ 87(2)(b), § 87(2)(g)

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Civilian and Officer CCRB Histories

- § 87(2)(b)
- Sgt. Cheesewright has been a member of service for 27 years and has been a subject in 36 CCRB complaints and 80 allegations, of which 16 were substantiated within four cases.
 - Case # 200202002 involved substantiated allegations of force, vehicle search, and threat of force. The Board recommended charges, and the NYPD imposed no penalty.
 - Case # 200202912 involved substantiated allegation of stop and/or question, frisk and/or search, vehicle stop, and refusal to provide name/shield. The Board recommended charges for all allegations. He was found not guilty for the question and/or stop and the refusal to provide name/shield. He was found guilty of the frisk and/or search and vehicle allegations and received instructions.
 - Case 200205206 involved substantiated allegations of frisk and/or search, vehicle stop, and retaliatory summons. The Board recommended charges for all of the allegations. All of the charges were dismissed at trial.
 - Case 200600042 involved substantiated allegations of gun drawn, premises entered and/or searched. The Board recommended charges, and the NYPD declined to prosecute.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint
- As of October 11, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (**BR 16**).
- According to the Office of Court Administration, § 87(2)(b) has no history of convictions in New York City (**BR 17**).

Squad No.: 10

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date